## THE BROWNFIELDS ACTION AGENDA

The U.S. Environmental Protection Agency (EPA) firmly believes that environmental cleanup is a building block to economic development, not a stumbling block - that revitalizing contaminated property must go hand in hand with bringing life and economic vitality back to the community. EPA's Brownfields Economic Redevelopment Initiative will empower States, localities, and other agents of economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields. Brownfields are abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. Benefits of the Brownfields Initiative will be realized in affected communities through a cleaner environment, new jobs, an enhanced tax base, and a sense of optimism about the future.

On January 25, 1995, EPA Administrator Carol Browner announced the Brownfields Action Agenda which outlines EPA's activities and future plans to help States and localities implement and realize the benefits of the Brownfields Initiative. Implementation of the Brownfields Action Agenda will help reverse the spiral of unaddressed contamination, declining property values, and increased unemployment often found in inner city industrial areas, while maintaining deterrents to future contamination and EPA's focus on assessing and cleaning up "worst sites first." The Brownfields Action Agenda is a "work in progress" and will continue to evolve as EPA seeks advice and input from a broad range of stakeholders.

The efforts outlined in the Brownfields Action Agenda can be grouped into four broad and overlapping categories:

- I. Brownfields Pilots
- EPA will select 50 States, cities, towns, counties, and Tribes for Brownfields pilots by the end of 1996. The pilots, each funded at up to \$200,000 over two years, will test redevelopment models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated public and private efforts at the Federal, State, and local levels.
- II. Clarification of Liability and Cleanup Issues
- EPA is working with States and localities to develop and issue guidances that will clarify the liability of prospective purchasers, lenders, property owners, and others regarding their association with and activities at a site. These guidances will clearly state EPA's decision to use its enforcement discretion in specific situations not to pursue such parties. EPA anticipates that these clear statements will alleviate concerns these parties may have and will facilitate their involvement in cleanup and redevelopment.
- III. Partnerships and Outreach
- EPA is committed to building partnerships with States, cities, and community representatives and among Federal agencies to develop strategies for promoting public participation and community involvement in Brownfields decision making.
- IV. Job Development and Training
- EPA Brownfields staff, local contacts, and community colleges have established partnerships to develop long-term plans for fostering workforce development through environmental education, ensure the recruitment of students from socioeconomically disadvantaged communities, provide quality worker training, and allow local residents an opportunity to qualify for jobs developed as a result of Brownfields efforts.

This document outlines the specific activities planned under each of these four areas and their associated benefits.

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## I. Brownfields Pilots

Brownfields pilots are intended to provide EPA, States, and localities with useful information and new strategies for promoting a unified approach to environmental assessment, cleanup, and redevelopment. Experience gained from the pilots, along with partnerships and outreach activities, will provide a growing knowledge base to help direct the Brownfields Initiative.

Through the Brownfields pilot program, EPA will work with cooperative agreement recipients and other stakeholders to better understand and overcome unnecessary or perceived liability barriers to the cleanup and redevelopment of brownfields. EPA has already seen dramatic results from a \$200,000 pilot awarded to Cuyahoga County (Cleveland), Ohio in November 1993. This was the first *National Brownfields pilot* funded by EPA. As a result of this pilot, \$1.6 million in private cleanup dollars has been leveraged, \$110,000 in private foundation money has been invested, and over \$625,000 has been generated in new tax dollars. In addition to these evolving numbers, nearly 100 new jobs have been created, and additional jobs are expected in 1996. Seventeen additional *National pilots* are currently underway in Baltimore, MD; Birmingham, AL; Bridgeport, CT; Detroit, MI; Indianapolis, IN; Knoxville, TN; Laredo, TX; Louisville, KY; New Orleans, LA; Northampton County-Cape Charles, VA; Oregon Mill Sites; Richmond, VA; Rochester, NY; Sacramento, CA; St. Louis, MO; Trenton, NJ; and West Central Municipal Conference, IL. In October 1995, EPA announced eleven *Regional pilots* in Boston, MA; Buffalo, NY; Dallas, TX; Duwamish, WA; Illinois; Indiana; Minnesota; Philadelphia, PA; Pittsburgh, PA; Sand Creek Corridor, CO; and West Jordan, UT. Ten additional *National pilots* will be announced in January 1996.

Specific activities and their associated benefits include:

## **Brownfields Economic Redevelopment Pilots**

(1995 - 1998)

### **Actions**

- EPA will fund at least fifty Brownfields pilots by the end of 1996, at up to \$200,000 each, to support creative two-year demonstrations of assessment activities leading to cleanup and redevelopment solutions.
- EPA awarded the first pilot in Cleveland, Ohio in 1993.
- EPA awarded two pilots at the end of 1994 in Bridgeport, Connecticut and Richmond, Virginia.
- EPA awarded fifteen additional National pilots in July 1995.
- · EPA awarded eleven *Regional pilots* in October 1995.
- EPA will award ten new *National pilots* in January 1996.

- Encourages community groups, investors, lenders, developers, and other affected parties
  to join forces and develop creative solutions to assess and clean up contaminated sites
  and return them to productive use;
- Provides concrete data on Brownfields issues that highlight positive aspects of EPA's waste policies and identify areas that could be improved; and
- Provides models of administrative, managerial, and technical processes from which States and localities can learn as they set up processes to assess, cleanup, and redevelop sites of their own.

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A significant barrier to assessing, cleaning up, and redeveloping brownfields is the public's apprehension about becoming involved with a site for fear of inheriting cleanup liabilities for contamination they did not create. EPA is attempting to address the concerns of communities, lenders, property owners, municipalities, and others by clarifying relevant liability issues. Clarification of liability issues will encourage the purchase, cleanup, and redevelopment of sites that might otherwise be avoided due to an exaggerated sense of the risk of incurring Federal liability.

Specific liability issues targeted by the Brownfields Initiative to date include prospective purchaser liability, the liability of owners of property containing contaminated aquifers, lender liability, municipal acquisition liability, and lender liability at Underground Storage Tank (UST) sites. EPA also archived 24,000 of the 40,000 sites which had been listed in the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) database where no further Federal action is planned. This action should reduce any stigma associated with Federal involvement at these sites and remove potential obstacles to their cleanup and redevelopment.

Specific activities and their associated benefits in this area include:

### Archiving 24,000 CERCLIS Sites

(Completed February 1995)

#### Actions

- EPA archived approximately 24,000 sites, out of a previous total of 40,000 sites, from CERCLIS. Many of these sites were found to be clean, while others are being addressed by State cleanup programs.
- EPA plans to improve access to information gathered during the investigations conducted at these sites.
- EPA plans to further clarify the risk, or lack of risk, of incurring Federal liability at these sites.

- Clarifies that the Federal government is unlikely to have any further Superfund interest in these archived sites;
- Clarifies for the lending and business communities the distinction between archived sites and those remaining on CERCLIS; and
- Encourages cleanup (if any contamination remains) and economic redevelopment of these properties.

# Guidance on Agreements with Prospective Purchasers of Contaminated Property (Issued May 1995)

Actions

EPA issued guidance on Agreements with Prospective Purchaser of Contaminated Property in May 1995 which expands the circumstances under which EPA will consider such agreements. The guidance states the situations under which EPA may enter into an agreement to not file a lawsuit against a prospective purchaser of a contaminated property for contamination that existed prior to the purchase.

**Benefits** 

- Eliminates much of the "retroactive liability" concern associated with purchasing contaminated or previously contaminated property where some evidence of Federal environmental interest exists; and
- Encourages parties to purchase, assess, cleanup, and redevelop brownfields they might otherwise avoid due to a reasonable fear of incurring Federal liability.

# **Policy Toward Owners of Property Containing Contaminated Aquifers** (Issued May 1995)

Actions

EPA issued a general policy statement regarding the liability of owners of uncontaminated property containing groundwater that has been contaminated by a neighboring property. The policy statement provides assurance that EPA does not anticipate suing the property owner for groundwater contamination if the owner did not cause or contribute to the contamination.

**Benefits** 

- Removes major roadblocks to the redevelopment of properties containing contaminated aquifers; and
- Allows these properties to be bought and sold free from the impediment of direct Federal liability.

## Land Use in the CERCLA Remedy Selection Process

(Issued May 1995)

Actions

- EPA issued guidance regarding the increased consideration of anticipated future land uses in remedy selection decisions at National Priorities List (NPL) sites.
- The guidance encourages discussions among local land use planning authorities, other officials, and the community as early as possible in the site assessment process.

- Ensures that EPA considers future land use during Superfund cleanups;
- · Fosters greater community support for selected remedies; and
- · Facilitates expedited, more cost-effective cleanups.

## Model Comfort Letter for Transfers of Federally Owned Property (Issued August 1995)

Actions

- EPA issued a Model Comfort Letter Clarifying NPL Listing, Uncontaminated Parcel Identification, and CERCLA Liability Involving Transfers of Federally Owned Property which addresses various issues concerning perceived NPL stigma and Superfund liability.
- The letter clarifies some common misunderstandings about NPL listing and CERCLA liability and highlights certain provisions concerning the transfer of Federally owned properties. Additionally, it clarifies that parcels of military bases identified as uncontaminated under the Community Environmental Response Facilitation Act (CERFA) are not part of the NPL listing.

**Benefits** 

- Reduces the perceived NPL stigma at closing military bases; and
- Encourages the redevelopment of decommissioned military bases.

# **Underground Storage Tank (UST) Lender Liability Rule** (Issued September 1995)

Actions • EPA issued a regulation clarifying when a lender may be exempt from UST liability.

Benefits Removes a major barrier to financing the cleanup and redevelopment of UST sites, which constitute a large percentage of brownfields nation-wide.

# Policy on CERCLA Enforcement Against Lenders and Government Entities That Acquire Property Involuntarily

(Issued September 1995)

#### **Actions**

- EPA and the Department of Justice (DOJ) jointly issued a memo explaining their policy on CERCLA enforcement against lenders and government entities that acquire property involuntarily. The memo states that EPA and DOJ intend to apply as guidance the provisions of the "Lender Liability Rule" promulgated in 1992.
- EPA and DOJ will not pursue cleanup costs from those lenders that provide money to an owner or developer of a contaminated property, but do not actively participate in daily management of the property.
- CERCLA releases from liability governmental units that involuntarily take ownership of property through the operation of Federal, State, or local law. EPA clarified which actions would be considered "involuntary" and would therefore not subject the governmental unit to potential liability.

#### **Benefits**

- Increases the availability of financing for parties willing to assess, cleanup, and redevelop sites by assuring lenders that EPA will not hold them liable for cleanup costs of land they simply accepted as collateral for a loan;
- Fosters economic redevelopment efforts by removing barriers that hinder financing options;
   and
- Encourages municipalities to start the process of getting a site assessed, cleaned up, and put back into productive use by addressing concerns about Federal Superfund liability.

### **Draft Soil Screening Guidance**

(Issued December 1994)

#### **Actions**

EPA issued a draft guidance which will help decision-makers quickly determine which portions of a site require further study and which pose little risk to human health and may therefore be ready for redevelopment even without extensive cleanup.

- Streamlines the study of toxic chemicals in soils at Superfund sites;
- Removes barriers that currently hinder the redevelopment of sites, or portions thereof, that pose little risk to human health; and
- · Allows cleanup efforts and funding to target those areas truly requiring remediation.

## Risk-Based Corrective Action (RBCA) at Underground Storage Tank Sites (Initiated 1994)

#### Actions

- EPA has adopted the Risk-Based Corrective Action (RBCA), decision-making model at UST sites as a method of risk management. RBCA is a framework for considering both the contamination and the site-specific factors to determine the danger to human health and the environment from a given release.
- EPA is providing training to State UST program staff in this approach, enabling them to create systems appropriate for their own States.

#### **Benefits**

- Allows environmental response action at all contaminated UST sites, while focusing public cleanup and oversight resources on those sites posing the highest risk; and
- Allows more UST sites to be "closed," and thus available for reuse.

### **Corrective Action at RCRA Sites**

(Planned December 1995)

#### **Actions**

- EPA is revising its proposed corrective action regulations (known as the "Subpart S" rule) for Resource Conservation and Recovery Act (RCRA) sites. EPA's Corrective Action program exists to clean up currently operating hazardous waste treatment, storage, or disposal facilities that are seeking or required to have a permit under RCRA. These sites often contain inactive, contaminated plots awaiting cleanup.
- EPA plans to issue a notice explaining the status of this action in December 1995 and to finalize and re-propose this part of the rule in Spring 1997.

- Provides incentives for streamlined remediations at operating RCRA sites;
- · Creates a consistent, holistic approach to RCRA facility cleanups; and
- Establishes protective, common-sense cleanup goals at RCRA sites.

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## III. PARTNERSHIPS AND OUTREACH

EPA is committed to building partnerships with States, cities, and community representatives to develop strategies for promoting public participation and community involvement in Brownfields decision making. EPA will continue to work with other Federal agencies, on a national and local level, to ensure a coordinated Federal approach to encouraging the cleanup and redevelopment of brownfields. EPA is also forming partnerships with States, cities, and other for-profit and non-profit organizations to streamline and improve Brownfields efforts.

Specific activities and their associated benefits include:

### **Regional Brownfields Coordinators**

(Completed Spring 1995)

Actions

Each of EPA's 10 Regions has designated a Brownfields Coordinator and Brownfields Team members.

**Benefits** 

- Helps guide Region-specific projects to promote brownfields assessment, cleanup, and redevelopment;
- Enhances communication between EPA Headquarters and the Regions, thereby keeping both abreast of new information and ideas in the brownfields arena; and
- Provides a forum for EPA Headquarters and the Regions to work together toward the development of national Brownfields Initiative strategies.

## **State Voluntary Cleanup Programs**

(Workgroup formed Spring 1995)

**Actions** 

EPA is working with States, other Federal agencies, and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) to assess how its possible endorsement of State voluntary cleanup programs could encourage brownfields cleanup and redevelopment by assuring property owners that State approval of a voluntary cleanup holds virtually the same authority as Federal approval.

- Mitigates the threat of Federal involvement at sites cleaned up under "endorsed" State programs;
- Streamlines the cleanup and redevelopment processes by eliminating any perceived need for site-specific Federal sign-off at sites cleaned up under a State voluntary cleanup program;
- Helps reduce the transaction costs of cleaning up brownfields, thereby clearing the way for traditional market forces to initiate redevelopment; and
- · Allows Federal cleanup efforts and funding to target the "worst" sites first.

## III. PARTNERSHIPS AND OUTREACH (CONT.)

## **Revised Community Reinvestment Act (CRA)**

(Issued May 1995)

#### **Actions**

- EPA coordinated with the Office of the Comptroller of Currency to revise the Community Reinvestment Act (CRA) to support the goals of the Brownfields Initiative. Under the CRA, enacted in 1977, financial institutions are required to make loans to meet the needs of their communities, including low- and moderate-income areas.
- The revised CRA regulations allow banks to meet their CRA obligations by making loans for the cleanup or redevelopment of Brownfields as part of their community revitalization efforts.

#### **Benefits**

- Provides incentive for banks to finance Brownfields projects; and
- Represents the first time banks have been given CRA credit for any environmentallyrelated lending.

### NEJAC's Public Dialogues on Urban Revitalization and Brownfields

(Conducted Summer 1995; follow-up ongoing)

#### **Actions**

- The National Environmental Justice Advisory Council (NEJAC) conducted a series of oneday dialogues across the country in an effort to involve community groups and environmental justice advocates in the Brownfields Initiative by encouraging them to discuss their hopes, concerns, and recommendations for implementation in their city.
- Public dialogues were conducted in Boston, MA, Philadelphia, PA, Detroit, MI, Oakland, CA, and Atlanta, GA.
- NEJAC plans to issue a report that will include a summary of the Public Dialogues and subsequent recommendations for improvements to the Brownfields Initiative in November 1995.

- Provides communities with an opportunity to discuss grassroots issues related to urban revitalization and Brownfields and to develop innovative solutions to brownfields-related problems;
- Serves as an effective mechanism for disseminating Brownfields and urban revitalization information to the public;
- Allows EPA to gather input from and develop partnerships with affected communities;
- Helps EPA develop recommendations for Brownfields policy guidance, grant criteria, regulatory developments, and program activities; and
- Connects other Federal agencies to communities to identify and address problems related to grassroots urban revitalization.

## III. PARTNERSHIPS AND OUTREACH (CONT.)

### Intergovernmental Personnel Assignments (IPAs) to States and Municipalities

(On-going; at least one per Region by December 1995)

#### **Actions**

EPA has assigned eight staff members, through IPAs, to help develop State and local Brownfields programs. Currently, two staff members each are assigned to Chicago, Illinois and within the State of Colorado; and one each to Dallas, Texas; Detroit, Michigan; East Chicago, Indiana; and East Palo Alto, California. Additionally, one staff member will be stationed in Los Angeles, California.

#### **Benefits**

- Helps EPA develop an understanding of the challenges faced at the State and local levels in implementing assessment, cleanup, and redevelopment efforts; and
- Enhances the Brownfields Initiative by promoting dialogue and encouraging understanding among Federal, State, and local environmental agencies with common environmental and redevelopment goals.

## Partnerships with Other Federal Agencies (On-going)

#### **Actions**

- EPA signed a Memorandum of Understanding (MOU) with the Economic Development Administration of the Department of Commerce to consult on economic redevelopment and reuse of brownfields to ensure that sound environmental and economic development principles are followed, and to share knowledge and serve on advisory groups regarding brownfields projects.
- EPA is working with the Department of Labor (DOL) to provide the youth of Brownfields communities with environmental training and job opportunities through DOL's Job Corps program.
- EPA is working with the Department of Housing and Urban Development (HUD) to understand the factors that impact urban investment and redevelopment decisions, and to collaborate in cities designated as Enterprise Zones/Enterprise (EZ/EC) Communities, where appropriate.

- Provides a Federal forum for understanding and assisting in the transition from site assessment and cleanup to site redevelopment;
- Assures that residents of Brownfields communities are trained for jobs that will allow them to benefit professionally from industrial and commercial activities associated with site cleanup;
- Provides valuable information to ensure the successful evolution of the Brownfields Initiative: and
- Provides a more comprehensive Federal approach in local communities through more effective coordination.

## III. PARTNERSHIPS AND OUTREACH (CONT.)

# Common Sense Initiative (CSI) Industry Groups (On-going)

**Actions** 

- EPA launched the Common Sense Initiative (CSI) last year to work with selected industries, environmental and public interest groups, State regulators, and other stakeholders to achieve "cleaner, cheaper, and smarter" environmental protection. EPA will seek the input of CSI industry sector groups on relevant brownfields activities.
- The Iron and Steel CSI sector group is already developing a brownfields strategy, and has started discussions on possible project proposals.

**Benefits** 

Provides the opportunity to focus on industry-specific solutions to the economic redevelopment challenges of certain brownfields.

### **Research Efforts**

(On-going, initiated in 1993)

Actions

- EPA is funding a series of studies that explore the scope and nature of the brownfields dilemma. Partners in these studies will include for-profit, non-profit, and government entities.
- EPA and HUD have conducted a joint research project to obtain information on factors impacting urban investment and redevelopment decisions. Both EPA and HUD recognize that to facilitate the assessment, cleanup, reuse, and redevelopment of brownfields legal, financial, regulatory impediments, and opportunities must be considered.
- EPA and DOL have joined forces in an effort to better understand the impact that
  environmental hazards and the environmental regulatory process may have on urban
  redevelopment. The study will also examine the role of institutional and organizational
  structures, both in the private and public sectors, in determining how risks affect
  environmentally-sensitive investment decisions.
- EPA and the Institute for Responsible Management (IRM) have entered into a cooperative
  agreement to provide assistance to States and localities that are attempting to address and
  promote appropriate reuse of hazardous waste sites.
- EPA is conducting a study to determine the extent of existing risk transfer mechanisms (i.e., environmental liability insurance), the risks these mechanisms actually cover, and the impediments for future transfer of risk. EPA will then determine opportunities for encouraging the availability and use of these mechanisms to further the assessment, cleanup, and redevelopment of brownfields.

- Provides valuable information that will make Brownfields pilots and independent assessment, cleanup, and redevelopment efforts better focused and more effective;
- Helps EPA understand and convey the lessons of the pilots to one another and to other interested States, municipalities, Tribes, and communities; and
- Provides a foundation for encouraging investors and developers to invest in and develop brownfields.

## IV. JOB DEVELOPMENT AND TRAINING

EPA Brownfields staff, local contacts, and community colleges have established local partnerships to develop long-term plans for fostering workforce development through environmental education, ensuring the recruitment of students from socioeconomically disadvantaged communities, and providing quality worker training to local residents so they can qualify for jobs developed as a result of Brownfields efforts.

Specific activities and their associated benefits include:

# Hazardous Materials Training and Research Institute (HMTRI) (On-going)

Actions • EPA is working with the Hazardous Materials Training and Research Institute (HMTRI) to

expand training and curriculum development at community colleges located near

Brownfields pilot sites.

Benefits · Fosters workforce development in Brownfields pilot communities; and

Prepares local citizens for Brownfields-related employment in their communities.

# **Environmental Workforce Initiative, Cleveland, Ohio** (On-going)

Actions • EPA provided Cuyahoga Community College (Tri-C) in Cleveland with funding to improve local workforce development through environmental education, outreach, and training.

Tri-C staff are conducting community outreach activities to recruit students from socioeconomically disadvantaged communities and others to provide environmental

information to environmental justice (EJ) neighborhoods.

Tri-C established a community/business task force to ensure broad participation and input

in these efforts.

**Benefits** 

• Ensures that Cleveland's redevelopment efforts benefit from the trained workforce needed to revitalize contaminated properties;

Involves the community in the Brownfields effort;

· Informs community members of how the Brownfields Initiative will affect them; and

Links local residents to emerging local job opportunities.

## IV. JOB DEVELOPMENT AND TRAINING (CONT.)

# **Rio Hondo Environmental Education and Training Center, Whittier, California** (On-going)

**Actions** 

The Rio Hondo Community College District, through an agreement with EPA, has established an environmental education and job training center to provide comprehensive technician-level training on Superfund-related subjects, issues, and methodologies. The college is adjacent to one of Los Angeles County's landfill sites. The college's student enrollment is indicative of the community population - over 64% Hispanic and 33% from other minority groups.

**Benefits** 

- Assures that the area's redevelopment efforts have the trained workforce needed to revitalize contaminated properties; and
- · Involves community members in the Brownfields effort.

# **Environmental Job Training and Education Summit, Bridgeport, Connecticut** (On-going)

**Actions** 

- The City of Bridgeport's Office of Planning and Economic Development (OPED) held an Environmental Education and Job Training Summit in June 1995 to share information and ideas on the Brownfields Initiative.
- The City continues to coordinate closely with Housatonic Community College, Sacred Heart University, and community-based organizations that are developing quality environmental education and training programs.

- Provides a forum for community, government, and business representatives to discuss relevant issues and plan collaborative efforts;
- · Involves community members in the Brownfields effort; and
- Ensures that the area's redevelopment efforts have the trained workforce needed to revitalize contaminated properties.